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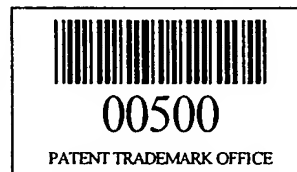
<b>ELECTION AND POWER OF ATTORNEY OR AUTHORIZATION OF AGENT</b>	<b>Application Number</b>	09/724,653
	<b>Filing Date</b>	November 28, 2000
	<b>First Named Inventor</b>	Victor Ling
	<b>Group Art Unit</b>	1645
	<b>Examiner Name</b>	
	<b>Attorney Docket Number</b>	100103.407

I hereby appoint:

☒ Practitioners at Customer Number  →

OR

☐ Practitioner(s) named below:



Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☒ The above-mentioned Customer Number.

OR

<input type="checkbox"/> Firm or Individual Name					
Address					
Address					
City		State		ZIP	
Country					
Telephone		Fax			

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.

*Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).*

☒ As assignee of record of the entire interest hereby elect, under 37 C.F.R. § 3.71, to prosecute the application to the exclusion of the inventor

**SIGNATURE of Applicant or Assignee of Record**

<b>Name</b>	Peter B. Reinger, Ph.D., President and CEO of Active Pass Pharmaceuticals, Inc.
<b>Signature</b>	
<b>Date</b>	Nov 28, 2001

**NOTE:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any Comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

(JEP:cw) #229097

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Victor LingApplication No./Patent No.: 09/724,653 Filed/Issue Date: November 28, 2000Entitled: NOVEL ABCB9 TRANSPORTER AND USES THEREOFActive Pass Pharmaceuticals, Inc.

(Name of Assignee)

a

corporation of Canada(Type of Assignee, e.g., corporation, partnership,  
university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above.  
A copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.☐ Additional documents in the chain of title are listed on a supplemental sheet.☐ Copies of assignments or other documents in the chain of title are attached.**[NOTE:** A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Nov 28, 2001  
DatePeter B. Reiner

Typed or printed name

Peter B. Reiner  
SignaturePresident and CEO

Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**COPY**

ASSIGNMENT

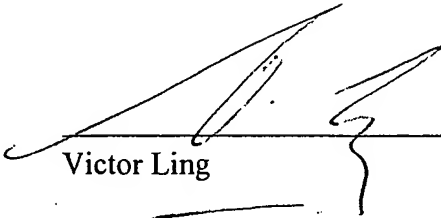
WHEREAS, I, Victor Ling, (hereinafter referred to as ASSIGNOR), having a mailing address of 5671 Trafalgar Street, Vancouver, British Columbia, Canada V6N 1C2, am the sole inventor of an invention entitled "NOVEL ABCB9 TRANSPORTER AND USES THEREOF," as described and claimed in the specification for which an application for United States letters patent was filed on November 28, 2000, and assigned Application No. 09/724,653.

WHEREAS, Active Pass Pharmaceuticals, Inc., (hereinafter referred to as ASSIGNEE), a corporation of the Country of Canada having a place of business at 520 West Sixth Avenue, Suite 400, Vancouver, British Columbia, Canada V5Z 4H5 is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby sells, assigns and transfers unto said ASSIGNEE the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNOR had this assignment, transfer and sale not been made. ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNOR agrees to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters

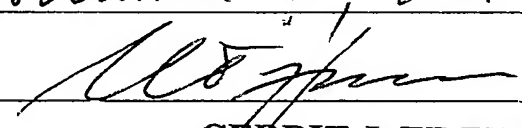
patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

November 5, 2001  
Date

  
Victor Ling

Province of British Columbia     )  
  )  
Country of Canada                    )     ss.

I certify that I know or have satisfactory evidence that Victor Ling is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated November 5, 2001  
Signature of Notary Public   
Printed Name GERRIT J. TE HENNEPE  
NOTARY PUBLIC  
My appointment does not expire 203 - 4545 WEST 10TH AVENUE  
VANCOUVER, B.C. V6R 4N2

# COPY

Express Mail No. EV336655003US

## ASSIGNMENT

WHEREAS, we, **Michelle L. Pollard**, having a mailing address of 301 – 225 West 10th Avenue, Vancouver, British Columbia, Canada V5Y 1R9, and **Bruce P. Connop**, having a mailing address of 316-2678 West Broadway, Vancouver, British Columbia, Canada V6K 2G3 (hereinafter referred to as ASSIGNORS), are co-inventors with Victor Ling and Fang Zhang of an invention entitled “NOVEL ABCB9 TRANSPORTER AND USES THEREOF,” as described and claimed in the specification for which an application for United States letters patent was filed on November 28, 2000, and assigned Application No. 09/724,653; which application claims the benefit of U.S. Provisional Patent Application No. 60/167,930, filed November 29, 1999;

WHEREAS, **Active Pass Pharmaceuticals, Inc.**, (hereinafter referred to as ASSIGNEE), a corporation of the Country of Canada having a place of business at 520 West Sixth Avenue, Suite 400, Vancouver, British Columbia, Canada V5Z 4H5, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters

patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

Oct 16, 2003  
Date

Michelle L. Pollard  
Michelle L. Pollard

Province of British Columbia )  
Country of Canada )

ss.

I certify that I know or have satisfactory evidence that Michelle L. Pollard is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated October 16, 2003

Signature of Notary Public [Signature]

Printed Name Jennifer Brown

My appointment does not expire

Oct 14, 2003  
Date

Bruce Connop  
Bruce P. Connop

Province of British Columbia )  
Country of Canada )

ss.

I certify that I know or have satisfactory evidence that Bruce P. Connop is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated October 14, 2003

Signature of Notary Public [Signature]

Printed Name Jennifer Brown

My appointment does not expire

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Victor Ling et al.  
Application No. : 09/724,653  
Filed : November 28, 2000  
Allowed : September 9, 2003  
For : *NOVEL ABCB9 TRANSPORTER AND USES THEREOF*

Examiner : RAO, Manjunath N.  
Art Unit : 1652  
Docket No. : 100103.407  
Date : December 9, 2003

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a)  
AND PETITION REGARDING NONSIGNING INVENTOR UNDER 37 C.F.R. § 1.47(a)

Commissioner:

**PETITION UNDER 37 C.F.R. § 1.48(a)(1)**

Applicants hereby respectfully petition, pursuant to 37 C.F.R. § 1.48(a)(1), that the inventorship of the above-identified patent application be corrected to **add** the following inventors:

Michelle L. POLLARD, Bruce P. CONNOP, and Fang ZHANG.

The inventorship error occurred without deceptive intent on the part of the inventors. Submitted herewith are (1) a Statement by Michelle L. Pollard and Bruce P. Connop regarding the inventorship error pursuant to 37 C.F.R. § 1.48(a)(2); (2) a Supplemental Declaration executed by Victor Ling, Michelle L. Pollard, and Bruce P. Connop pursuant to 37 C.F.R. §1.48(a)(3); (3) the requisite processing fee under 37 C.F.R. §1.17(i) of \$130.00; (4) a Consent of Assignee to Correct Inventorship under 37 C.F.R. §1.48(a)(5); and (5) a copy of the Assignment of Ms. Pollard and Dr. Connop to Active Pass Pharmaceuticals, Inc.

**PETITION UNDER 37 C.F.R. § 1.47(a)**

Applicants hereby respectfully petition, pursuant to 37 C.F.R. § 1.47(a), that inventor Fang Zhang, who is a citizen of Canada, be added as an inventor who refuses to join in an application for patent. Enclosed is the additional requisite processing fee of \$130.00 under 37 C.F.R. §1.17(h).

Submitted herewith are the following Exhibits:

(A) the Supplemental Declaration executed by Dr. Ling, Ms. Pollard, and Dr. Connop, but which has not been executed by Dr. Zhang (see (2) above);

(B) a copy of the electronic correspondence from the undersigned to Dr. Zhang on September 10, 2003 regarding inventorship;

(C) a copy of attorney record of a phone call dated September 15, 2003 between the undersigned and Dr. Zhang indicating that Dr. Zhang had an overall inclination to decline participation;

(D) a copy of the letter mailed registered, return receipt (copy attached) to Dr. Zhang at the address listed below on October 6, 2003, which included a copy of the application as filed and the presently allowed claims; the Statement under 37 C.F.R. § 1.48(a), the Supplemental Declaration, an Assignment (copies attached); and a return FedEx envelope;

(E) electronic mail correspondence initiated by Dr. Zhang on October 10, 2003 and answered by the undersigned on October 13, 2003 clarifying inventorship issues;

(F) electronic mail initiated by Dr. Zhang on October 21, 2003 and answered by the undersigned on October 22, 2003 further indicating that Dr. Zhang does not consider herself an inventor on this application and does not plan to sign the documents;

(G) electronic mail initiated by the undersigned on November 12, 2003 requesting confirmation from Dr. Zhang regarding the execution of the Supplemental Declaration;

(H) electronic mail from Dr. Zhang dated November 13, 2003 in which Dr. Zhang indicates that she will not sign the documents forwarded to her on October 6, 2003.



The last known address of Dr. Fang Zhang is provided below.

Fang Zhang, Ph.D.  
Department of Biochemistry and Microbiology  
University of Victoria  
P.O. Box 3055 STN CSC  
Victoria, British Columbia  
Canada V8W 3P6

Applicants respectfully submit that a good faith effort has been made to determine the inventorship of this patent application and also submit that one inventor, Dr. Fang Zhang, refuses to sign a Supplemental Oath and Declaration complying with 37 C.F.R. § 1.63 and refuses to sign a Statement under 37 C.F.R. § 1.48(a) to correct inventorship.

Dr. Zhang was contacted by telephone by the undersigned on July 24, 2003 to discuss her inventive contribution to the patent application. During the teleconference Dr. Zhang expressed reticence about being a named inventor on the patent application and expressed her concern that the patent system might restrict other researchers from using the teachings of the application. In response to her request for additional information on patents and inventorship, in an email communication to Dr. Zhang (dated September 10, 2003, see Exhibit B), the undersigned provided the web site address for the U.S. Patent and Trademark Office, search terms for using an Internet search engine to identify articles discussing inventorship issues, and the availability of a specific article.

During a second teleconference (September 15, 2003), Dr. Zhang expressed that her overall inclination was to decline participation, and she stated that she would do so by denying that she was an inventor (see Exhibit C). Dr. Zhang was instructed during this phone call and in subsequent email communications (see Exhibits E and F) that inventorship is a legal determination that is based on the claimed subject matter. After interviewing another inventor, Dr. Ling, by teleconferences on June 23, 2003 and on September 29, 2003, the undersigned believed that Dr. Zhang had made an inventive contribution to the claimed invention. For Dr. Zhang's review, on October 6, 2003, she was forwarded copies of the application as filed and the presently allowed claims along with the Supplemental Declaration and the Statement under 37 C.F.R. § 1.48(a). Receipt of these documents by Dr. Zhang is confirmed by the return receipt of the registered letter (see Exhibit D) and by subsequent email correspondence (see Exhibits E

and F). In the email communication initiated by Dr. Zhang on October 21, 2003 (Exhibit F), Dr. Zhang states that she does not wish to sign the documents to correct inventorship. Dr. Zhang's refusal to sign the documents forwarded to her was affirmed in a third email communication initiated by the undersigned to which Dr. Zhang responded (Exhibits G and H).

Applicants respectfully submit that a *bona fide* attempt has been made to comply with 37 C.F.R. § 1.47 and request that this petition be granted.

Respectfully submitted,  
Victor Ling et al.  
Seed Intellectual Property Law Group PLLC



---

Mae Joanne Rosok  
Registration No. 48,903

Enclosures: As noted

701 Fifth Avenue, Suite 6300  
Seattle, Washington 98104-7092  
Phone: (206) 622-4900  
Fax: (206) 682-6031

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Victor Ling et al.  
Application No. : 09/724,653  
Filed : November 28, 2000  
For : *NOVEL ABCB9 TRANSPORTER AND USES THEREOF*

Examiner : RAO, Manjunath N.  
Art Unit : 1652  
Docket No. : 100103.407

Box Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF MICHELLE L. POLLARD UNDER 37 C.F.R. § 1.48(a)

I, Michelle L. Pollard, hereby declare as follows:

1. I, Michelle L. Pollard, am a joint inventor of the above-identified patent application.
2. The inventorship error, which mistakenly omitted me as a joint inventor in the above-identified patent application, occurred without deceptive intent on my part.
3. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

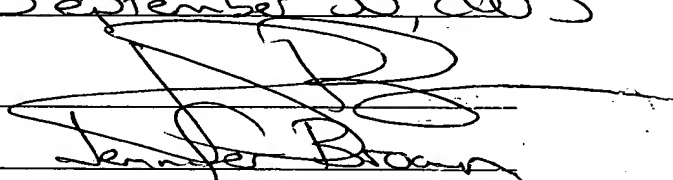
United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 30 day of September, 2003

  
Michelle L. Pollard

City of Vancouver                    )  
  )  
Province of British Columbia    )

I certify that I know or have satisfactory evidence that Michelle L. Pollard is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated September 30, 2003  
Signature of Notary Public   
Printed Name Jennifer Brown

MJR:imp

416576

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Victor Ling et al.  
Application No. : 09/724,653  
Filed : November 28, 2000  
For : *NOVEL ABCB9 TRANSPORTER AND USES THEREOF*

Examiner : RAO, Manjunath N.  
Art Unit : 1652  
Docket No. : 100103.407

Box Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF BRUCE P. CONNOP UNDER 37 C.F.R. § 1.48(a)

I, Bruce P. Connop, hereby declare as follows:

1. I, Bruce P. Connop, am a joint inventor of the above-identified patent application.
2. The inventorship error, which mistakenly omitted me as a joint inventor in the above-identified patent application, occurred without deceptive intent on my part.
3. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 24 day of September, 2003

Bruce P. Connop  
Bruce P. Connop

City of Vancouver                    )  
  )  
Province of British Columbia    )

I certify that I know or have satisfactory evidence that Bruce P. Connop is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated September 24 2003  
Signature of [Signature]  
Notary Public  
Printed Name Jennifer Brown

MJR:imp

416584

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Victor Ling et al.  
Application No. : 09/724,653  
Filed : November 28, 2000  
For : *NOVEL ABCB9 TRANSPORTER AND USES THEREOF*  
Examiner : RAO, Manjunath N.  
Art Unit : 1652  
Docket No. : 100103.407

Box Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


CONSENT OF ASSIGNEE TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a)

The undersigned hereby declares that Active Pass Pharmaceuticals is the assignee of the above-identified application, as evidenced by the Assignment recorded at the U.S. Patent and Trademark Office on January 11, 2002, at Reel Number 012459 and Frame Number 0384. The undersigned further declares that the subject Assignment has been reviewed and that, to the best of the Assignee's knowledge and belief, full right, title and interest in the above-identified application is in Active Pass Pharmaceuticals.

Active Pass Pharmaceuticals hereby consents to the correction of inventorship of the above-identified application to add Michelle L. POLLARD, Bruce P. CONNOP, and Fang ZHANG as inventors for the above-identified application, as requested in the Petition to Correct Inventorship under 37 C.F.R. § 1.48 filed herewith.

The undersigned (whose title is supplied below) is authorized to act on behalf of the Assignee.

DATED this 13 day of October, 2003

  
\_\_\_\_\_  
Peter B. Reiner, Ph.D.  
President and CEO  
Active Pass Pharmaceuticals, Inc.

MJR:Imp

416608

**ASSIGNMENT**

WHEREAS, we, **Michelle L. Pollard**, having a mailing address of 301 – 225 West 10th Avenue, Vancouver, British Columbia, Canada V5Y 1R9, and **Bruce P. Connop**, having a mailing address of 316-2678 West Broadway, Vancouver, British Columbia, Canada V6K 2G3 (hereinafter referred to as ASSIGNORS), are co-inventors with Victor Ling and Fang Zhang of an invention entitled “NOVEL ABCB9 TRANSPORTER AND USES THEREOF,” as described and claimed in the specification for which an application for United States letters patent was filed on November 28, 2000, and assigned Application No. 09/724,653; which application claims the benefit of U.S. Provisional Patent Application No. 60/167,930, filed November 29, 1999;

WHEREAS, **Active Pass Pharmaceuticals, Inc.**, (hereinafter referred to as ASSIGNEE), a corporation of the Country of Canada having a place of business at 520 West Sixth Avenue, Suite 400, Vancouver, British Columbia, Canada V5Z 4H5, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise; said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters



patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

Oct 16, 2003  
Date

Michelle L. Pollard  
Michelle L. Pollard

Province of British Columbia )  
Country of Canada )

ss.

I certify that I know or have satisfactory evidence that Michelle L. Pollard is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated October 16, 2003

Signature of  
Notary Public

Printed Name

My appointment does not expire

Oct 14, 2003  
Date

Bruce P. Connop  
Bruce P. Connop

Province of British Columbia )  
Country of Canada )

ss.

I certify that I know or have satisfactory evidence that Bruce P. Connop is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated October 14, 2003

Signature of  
Notary Public

Printed Name

My appointment does not expire

Approved for use through 10/31/2002. OMB 0651-0032. U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## SUPPLEMENTAL DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

**Title of Invention**      **NOVEL ABCB9 TRANSPORTER AND USES THEREOF**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or  
☒ Application No. 09/724,653, filed on November 28, 2000,  
☒ as amended on November 20, 2002 and June 24, 2003 (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

### FULL NAME OF INVENTOR(S)

Inventor one: Victor Ling      Citizen of: Canada  
 Signature: [Signature]      Date: December 4, 2003

Inventor two: Michelle L. Pollard      Citizen of: Canada  
 Signature: [Signature]      Date: September 30/03

Inventor three: Bruce P. Connop      Citizen of: Canada  
 Signature: [Signature]      Date: September 24, 2003

Inventor four: Fang Zhang      Citizen of: \_\_\_\_\_  
 Signature: \_\_\_\_\_      Date: \_\_\_\_\_

☐ Additional inventors are being named on \_\_\_\_\_ additional form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

416599

**Mae Rosok**

---

**From:** Mae Rosok  
**Sent:** Wednesday, September 10, 2003 11:47 AM  
**To:** 'fzhang@uvic.ca'  
**Subject:** inventorship

Hello Dr. Zhang,

My deepest apologies for taking so long to get back to you with information regarding inventorship. You may choose to start out by getting information from the United States Patent and Trademark Office website ([www.uspto.gov](http://www.uspto.gov)). The website has a discussion of the nature of patents and patent rights that will give you some basis for U.S. patent law. Numerous articles on inventorship and patents have been written. Several can be identified with a simple Google search using the word inventorship, which brings up many articles to choose from. One that is brief but somewhat informative is an article by Stephen Maebius. Search either "inventorship and Maebius" or look at the Foley website, [www.foleylardner.com](http://www.foleylardner.com). Some of the articles written (including the Maebius article) may not have clearly marked dates of publication; even if the dates are shown, please be aware that patent law does change, or the courts' interpretation of it changes, and so the information may not be current or complete. Also bear in mind that the articles drafted may reflect the drafter's own views or experience, with which other practitioners and/or the United States Patent and Trademark Office may not necessarily agree.

I hope that this is helpful.

Best regards,  
Mae  
Seed IP Law Group  
Patent Counsel for Active Pass Pharmaceuticals

Mae Joanne Rosok  
Patent Attorney  
Seed Intellectual Property Law Group PLLC  
701 Fifth Avenue, Suite 6300  
Seattle, WA 98104  
Phone: 206-622-4900  
Facsimile: 206-682-6031  
[maer@seedlaw.com](mailto:maer@seedlaw.com)

**SEED**

Intellectual Property Law Group PLLC

Voice Mail

☒ Telephone☐ Conference

## MEMORANDUM OF CONVERSATION

Conversation With: Dr. Fang Zhang Date: 9-15-03  
By: Mae J Broske Phone No. 250-721-7086  
Client: Active Pass  
Subject: Correction of Inventorship Docket No. 100103.407

Spoke with Dr. Zhang re: adding her as  
an inventor to this application.

Her comment was "that she had  
an "overall inclination to decline"  
& not be part of the process.

Dr. Zhang - was involved with  
analyzing the function of the  
transported.

**COPY** BEST AVAILABLE COPY

USAN 09/724,653

**SEED**

Intellectual Property Law Group PLLC

701 Fifth Avenue, Suite 6300  
Seattle WA 98104-7092 USA  
Facsimile: (206) 682-6031  
Telephone: (206) 622-4900  
www.seedlaw.com

Mae Joanne Rosok  
Patent Attorney  
maer@seedlaw.com

October 6, 2003

Fang Zhang, Ph.D.  
Department of Biochemistry and Microbiology  
University of Victoria  
P.O. Box 3055 STN CSC  
Victoria, BC  
CANADA V8W 3P6

Re: U.S. Patent Application 09/724,653  
NOVEL ABCB9 TRANSPORTER AND USES THEREOF  
Our Reference: 100103.407

Dear Dr. Zhang:

Pursuant to conversations with our client, Active Pass Pharmaceuticals, and with Dr. Ling, a named inventor on the above-referenced application, we understand that you made an inventive contribution to the subject matter of the invention claimed in this application, and therefore you are a joint inventor. As we have discussed in our telephone conversations, inventorship is a factual determination made according to U.S. laws and regulations. This determination, therefore, is made independently of whether a person desires to be a named inventor or desires not to be a named inventor. A joint inventor may refuse to join in the application but this does not alter whether the person made an inventive contribution to the claimed invention and does not alter the obligation under the law to identify the inventors correctly.

When an error in inventorship occurs without deceptive intent, a request to correct inventorship can be made. Accordingly, please find enclosed documents for your signature that will be submitted to the U.S. Patent and Trademark Office to correct the inventorship on this application. The documents include a Statement under 37 C.F.R. § 1.48(a) and a Supplemental Declaration. In addition, we have enclosed for your signature an assignment that names your employer at the time the invention was made, British Columbia Cancer Agency, as the assignee.

We ask that you please sign and date the documents in blue ink. In addition, please be sure to initial and date any corrections you make in any document, which should also preferably be made in blue ink. Please note that before signing and dating the Supplemental Declaration, you should review the enclosed patent application first. I have enclosed a copy of the allowed claims for your convenience.

Please return the signed documents to our office in the enclosed FedEx package at your earliest convenience, preferably by October 31, 2003.

**Exhibit (D)**

Fang Zhang, Ph.D.  
October 6, 2003  
Page 2

100103.407

Please do not hesitate to contact me if you have any questions.

With best regards,  
SEED Intellectual Property Law Group PLLC



Mae Joanne Rosok

Enclosures:

Patent Application No. 09/724,653  
Statement under 37 C.F.R. § 1.48(a)  
Supplemental Declaration  
Assignment  
FedEx Envelope

cc: William T. Christiansen, Ph.D.

(MJR:imp)

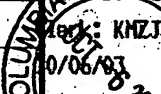
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	Handling Charge \$		Return Receipt \$	1.75
	Postage \$	3.75	Restricted \$	
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	FROM: M. J. Rosok; Seed IP Law Group 701 5th Ave., Suite 6300 Seattle WA 98104  TO: Dr. Fang Zhang; Univ. of Victoria PO Box 3055 STN CSC Victoria BC CANADA V8W 3P6		

**Receipt for Registered Mail** (Customer Copy)  
(See Information on Reverse)

[illegible]

Approved for use through 10/31/2002. OMB 0651-0032. U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### SUPPLEMENTAL DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

**Title of Invention**      **NOVEL ABCB9 TRNASPORTER AND USES THEREOF**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or  
☒ Application No. 09/724,653, filed on November 28, 2000,  
☒ as amended on November 20, 2002 and June 24, 2003 (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

#### FULL NAME OF INVENTOR(S)

Inventor one:      Victor Ling      Citizen of:      Canada

Signature:      \_\_\_\_\_      Date:      \_\_\_\_\_

Inventor two:      Michelle L. Pollard      Citizen of:      Canada

Signature:      \_\_\_\_\_      Date:      \_\_\_\_\_

Inventor three:      Bruce P. Connop      Citizen of:      Canada

Signature:      \_\_\_\_\_      Date:      \_\_\_\_\_

Inventor four:      Fang Zhang      Citizen of:      X

Signature:      X \_\_\_\_\_      Date:      X \_\_\_\_\_

☐ Additional inventors are being named on \_\_\_\_\_ additional form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



**COPY**

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Victor Ling et al.  
Application No. : 09/724,653  
Filed : November 28, 2000  
For : *NOVEL ABCB9 TRANSPORTER AND USES THEREOF*

Examiner : RAO, Manjunath N.  
Art Unit : 1652  
Docket No. : 100103.407

Box Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT OF FANG ZHANG UNDER 37 C.F.R. § 1.48(a)**

I, Fang Zhang, hereby declare as follows:

1. I, Fang Zhang, am a joint inventor of the above-identified patent application.
2. The inventorship error, which mistakenly omitted me as a joint inventor in the above-identified patent application, occurred without deceptive intent on my part.
3. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003

\_\_\_\_\_  
Fang Zhang

City of Vancouver            )  
  )  
Province of British Columbia )

I certify that I know or have satisfactory evidence that Fang Zhang is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated \_\_\_\_\_

Signature of  
Notary Public \_\_\_\_\_

Printed Name \_\_\_\_\_

MJR:imp

416586

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**ASSIGNMENT**

WHEREAS, I, **Fang Zhang**, having a mailing address of the Department of BioChemistry and Microbiology, University of Victoria, P.O. Box 3055 STN CSC, Victoria, BC Canada V8W 3P6 (hereinafter referred to as ASSIGNOR), am a co-inventor with Victor Ling, Michelle L. Pollard, and Bruce P. Connop of an invention entitled "NOVEL ABCB9 TRANSPORTER AND USES THEREOF," as described and claimed in the specification for which an application for United States letters patent was filed on November 28, 2000, and assigned Application No. 09/724,653; which application claims the benefit of U.S. Provisional Patent Application No. 60/167,930, filed November 29, 1999;

WHEREAS, **British Columbia Cancer Agency**, (hereinafter referred to as ASSIGNEE), a part of the Provincial Health Service Authority of the Country of Canada having an office at 600 West 10<sup>th</sup> Avenue, Fourth Floor, Vancouver, British Columbia, Canada V5Z 4E6, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby sells, assigns and transfers unto said ASSIGNEE the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNOR agrees to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters

patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fang Zhang

Province of British Columbia )

)  
ss.

Country of Canada )

I certify that I know or have satisfactory evidence that Fang Zhang is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated \_\_\_\_\_

Signature of  
Notary Public \_\_\_\_\_

Printed Name \_\_\_\_\_

My appointment does not expire

100103.407 / 420359